

Organizations that qualify as exclusively religious can apply to the Illinois Department of Revenue to obtain tax exemption identification numbers ("E" numbers). (This is a GIL).

November 19, 2001

Dear Xxxxx:

This letter is in response to your letter dated August 1, 2001 that we received on August 14, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

AAA, is currently established with you as a Tax Exempt, Not for Profit Religious Organization.

We are in the process of establishing a small bookstore (for people who attend the church). The bookstore will have **Mostly used books** that have been donated by members, as well as some that we purchase new at discount prices. Our price range For most of the books is 15% to 40% of the original cost. We would like to also carry small gift items (new and used) and some Religious games and books for children. It is our intention to be a service to the local church community, **since there is no Christian Bookstore in our immediate area**. We are not selling to make a profit....As a matter of fact...some times, we just give the items to people who can not afford to buy them. The people who work in the store are there strictly on a volunteer basis.

My question to you concerns the issue of Illinois Sales Tax. Could you please Inform us as to our responsibility, so that we are in compliance with the laws of the State of Illinois?

I await your response, thank you in advance for your help in this matter.

Organizations that qualify as exclusively religious, educational or charitable can apply to the Illinois Department of Revenue to obtain tax exemption identification numbers ("E" numbers). These numbers establish that the Department recognizes said organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes, and retailers do not incur Retailers' Occupation Tax on such sales.

Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners

and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. These sales must be of limited duration.

The Sales to Members exemption found at 86 Ill. Adm. Code 130.2005(a)(2) is limited to sales by an exclusively religious, educational or charitable organization that are made *primarily for the purposes of the selling organization* to its members, or students in the case of a school. Please note the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. If such sales are made to the public at large, the selling activity is subject to the Retailers' Occupation Tax. See Section 130.2005(a)(2) through (a)(4). Whether the sales are for the primary purpose of the selling organization depends on the nature of the tangible personal property sold and how that tangible personal property is used. If an organization sells literature or other items of tangible personal property that would place them in competition with religious bookstores, the sales generally would not be primarily for the purpose of the selling organization. However, sales of choir robes or like tangible personal property to members would generally be primarily for the purpose of the selling organization. It is very important that these organizations not be cavalier in determining the nature of their sales.

The Illinois Supreme Court provided guidance in this area in the case of Follett's Book & Supply Store v. Isaacs, 27 Ill.2d 600, 1963. In Follett's the court analyzed a situation where schools were selling books only to their students. The schools were not charging sales tax pursuant to a Department of Revenue regulation that exempted sales of schoolbooks by schools to its students. Retail bookstores that competed with the school bookstores brought the lawsuit and claimed that the schools were operated for educational purposes and that their book sales were not essential to such purposes or operated in furtherance of such purposes. The Illinois Supreme Court concluded that the sales were subject to sales tax and the court voided the Department regulation that had exempted such sales from sales tax liability.

If organizations engage in ongoing selling activities (such as Little League concession stands or sales of items in a thrift shop run by a church), they must also register with the Department as retailers, file returns and collect and remit tax. For these types of ongoing sales, the organizations would provide their suppliers with Certificates of Resale for the items they purchase to resell and remit Retailers' Occupation Tax on their gross receipts from sales. See 86 Ill. Adm. Code 130.1405, enclosed, which describes the requirements for validly executed Certificates of Resale.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk  
Enc.